

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
Los Alamos, New Mexico

FEB 12 2003

[Signature]
CLERK

PAUL E. DAWSON, as
Personal Representative of
KIRSTEN JANAY SUMLER, deceased,

Plaintiff,

vs.

No. CIV 00 1575

EL PASO NATURAL GAS COMPANY,
a Delaware corporation, and EL PASO
CORPORATION, a Delaware
corporation,

Defendants.

**AGREED MOTION TO CONFIRM SETTLEMENT AGREEMENT TO DISMISS
MOTION TO INTERVENE AND FOR ORDER OF DISMISSAL**

COME NOW, Plaintiff Paul E. Dawson as Personal Representative of Kirsten Janay Sumler, deceased ("Dawson"), Defendants El Paso Energy Corporation and El Paso Natural Gas Company (collectively "El Paso") and Jerry Rackley and Martha Chapman who have filed a Motion to Intervene in these proceedings ("Rackley and Chapman"), and file this their Agreed Motion to Confirm Settlement Agreement, to Dismiss Motion to Intervene and for an Order of Dismissal of the underlying causes of action, and in so doing would show unto the Court the following.

1. Dawson and El Paso have entered into a Settlement Agreement and General Release dated March 13, 2002. A true and correct copy of the Settlement Agreement and General Release is being tendered to the Court under seal, for review by the court and return to the parties, concurrent with the filing of this Agreed Motion.

2. The Court has previously confirmed Paul Dawson as the personal representative of Kirsten Janay Sumler under NMSA 41-2-3. In December 2002, the New Mexico Court of

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Appeals affirmed the appointment of Paul Dawson as personal representative of the probate Estate of Kirsten Janay Sumler.

3. Since the date of the New Mexico Court of Appeals Opinion, and since the filing of Chapman and Rackley's Motion to Intervene, Chapman and Rackley, through their counsel, have entered into an agreement with Dawson, through his counsel, to settle all disputes between them. A copy of that agreement is being tendered to the Court under seal, for review by the court and return to the parties, concurrently with this Motion. Pursuant to that agreement, the Motion to Intervene filed by Chapman and Rackley is now moot, and Chapman and Rackley join in this Agreed Motion to conclude this case.

4. As a result of (i) this Court's confirmation of Paul Dawson as the personal representative of Kirsten Janay Sumler under NMSA 41-2-3, (ii) the New Mexico Court of Appeals affirming Paul Dawson as the personal representative of the probate Estate of Kirsten Janay Sumler, and (iii) the settlement between Chapman and Rackley on the one hand, and Dawson on the other hand, the contingencies of paragraph IV B of the Settlement Agreement and General Release between Dawson and El Paso have been met. Accordingly, the parties are prepared to conclude the settlement and dismiss all matters pending in this action.

5. Dawson further moves for a non-suit of the punitive and exemplary damage claims in his Complaint.

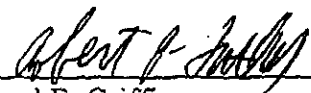
6. As a result of all the above, the parties in this action, together with Chapman and Rackley, request that the Court enter an order confirming the Settlement Agreement between Dawson and El Paso, and confirming Dawson's authority to receive from El Paso and to distribute to the wrongful death beneficiaries of Kirsten Janay Sumler, deceased, the proceeds of the settlement pursuant to the agreement between Dawson and Chapman and Rackley. The

parties to this Agreed Motion further request that the Motion to Intervene filed by Chapman and Rackley be dismissed as moot. Finally, on the remaining claims, the parties request that the Court enter an Order of Non-Suit on the punitive and exemplary damage claims in Dawson's complaint and enter an Agreed Order of Dismissal.

WHEREFORE, PREMISES CONSIDERED, Dawson, El Paso, Chapman and Rackley pray that the Court take the actions requested herein to conclude this litigation.

Respectfully submitted,

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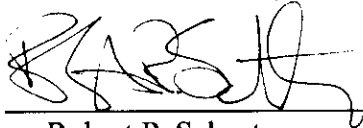


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